

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

<b>JASON CROFFORD</b>	§	
	§	
<b>VS.</b>	§	<b>NO.5-17-CV-00209-OLG</b>
	§	
<b>UNITED STATES OF AMERICA</b>	§	

**PLAINTIFF'S FIRST AMENDED COMPLAINT**

JASON CROFFORD, (“Plaintiff”) files this his First Amended Original Complaint against Defendant, UNITED STATES OF AMERICA (“Defendant”), and for cause of action would respectfully show the Court as follows:

**PARTIES AND SERVICE**

1. Plaintiff, Jason Crofford, is an individual residing in Texas.
2. Defendant, UNITED STATES OF AMERICA, pursuant to Federal Rule of Civil Procedure 4(i), may be served with service of process by serving a copy of the summons and complaint to the Civil Process Clerk Office of the United States Attorney for the Western District of Texas at 601 NW Loop 410, Suite 600, San Antonio, Texas 78216 and Richard Durbin, Jr., United States Attorney for the Western District of Texas at 601 NW Loop 410, Suite 600, San Antonio, Texas 78216. The United States of America may also be served with service of process by serving a copy of the summons and complaint to the Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C., 20530-0001.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over the lawsuit under 28 U.S.C. §1331 because this lawsuit arises under the Federal Tort Claims Act, 28 U.S.C. §1346(b)

4. Venue is proper in this Court because a substantial part of the events and omissions giving rise to this claim occurred in this District and Division.

5. All conditions precedent to Plaintiff's claims against Defendant has been performed, have occurred, satisfied, or otherwise fulfilled. Specifically, before filing this lawsuit, Plaintiff presented his claim to the United States Postal Service, which acknowledged receipt on May 16, 2016. The United States Postal Service denied Plaintiff's claim. Further, because more than six (6) months have elapsed since Plaintiff presented his claim to the United States Postal Service, Plaintiff has exhausted his administrative remedies and the Court has subject matter jurisdiction over this dispute. *See* 28 U.S.C. §2675(a).

#### **FACTUAL BACKGROUND**

6. Early in the morning of February 8, 2016, Plaintiff was safely and prudently operating his vehicle near Canyon Lake, Texas. During the dark and early morning hours, an employee of The United States Postal Service positioned his 18-wheeler truck across all lanes of traffic on a highway. The United States Postal Service truck had no visible lights. As result of the 18-wheeler occupying all lanes of the highway traffic, with no lights, Plaintiff collided with Defendant's vehicle and was seriously hurt. Plaintiff received no warnings prior to the incident and was without fault. Said incident was proximately caused by the negligence of Defendant. Plaintiff suffered multiple serious bodily injuries that were the result of the incident in question, and was life flighted from the scene.

#### **ALLEGATIONS**

7. On February 8, 2016, Flyner Alik was driving a United States Postal Service vehicle in the course and scope of his employment for Defendant. At the time of the crash, Defendant's employee failed to use ordinary care by various acts and omissions while operating the vehicle owned by

Defendant. Under the Federal Tort Claims Act, The United States of America is the proper party to this suit involving a federal agency. These acts or omissions, including but not limited to the ones listed below, were singularly or in combination, the proximate cause of the occurrence in question:

- a) Failing to keep a proper lookout.
- b) Failing to obey traffic laws of the state of Texas.
- c) Failing to safely operate vehicle.
- d) Failing to maintain the vehicle.
- e) Other acts of negligence.

8. Defendant is also responsible for the crash and Plaintiff's injuries. These acts or omissions, including but not limited to the ones listed below, were singularly or in combination, the proximate cause of occurrence in question. Defendant's negligence was a proximate cause of Plaintiff's injuries and damages. Defendant is negligent in the following manner:

- a) Defendant is the owner of the vehicle.
- b) Defendant's vehicle was driven by Alik negligently at the time of the accident.
- c) Defendant's negligence proximately caused injury to Plaintiff.
- d) Defendant employed the driver and is liable for his negligence pursuant to the doctrine of respondeat superior.
- e) Failing to properly maintain vehicle.
- f) Other acts of negligence.

#### **PLAINTIFF'S INJURIES AND DAMAGES**

9. Plaintiff suffered severe bodily injuries as a result of the incident made the basis of this lawsuit. Plaintiff, therefore, seeks the recovery of the following damages:

- (a) Past and future physical pain;

- (b) Past and future mental anguish;
- (c) Past and future physical impairment;
- (d) Past and future physical disfigurement;
- (e) Past loss of wages and household services;
- (f) Future loss of earning capacity and household services; and
- (g) Past and future medical expenses.

### **RECOVERY OF INTEREST**

10. Plaintiff would additionally say and show that he is entitled to recovery of pre-judgment and post-judgment interest in accordance with law and equity as part of his damages herein and Plaintiff here and now sues specifically for recovery of pre-judgment and post-judgment interest as provided by law.

### **PRAYER**

WHEREFORE, Jason Crofford, Plaintiff, prays that the Defendant, and UNITED STATES OF AMERICA be cited to appear and answer this lawsuit, that judgment be entered against Defendant, that Plaintiff recover his damages in accordance with the evidence, that Plaintiff recover his costs of court, that Plaintiff recover interest to which he is entitled under the law, and for all other just and equitable relief.

Respectfully Submitted,

**STEVENSON & MURRAY**

/s/ W. Robert Hand

JOHN W. STEVENSON, JR.

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**ATTORNEYS FOR JASON CROFFORD**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to all known counsel of record via ECF electronic filing system, on the 10th day of July, 2017, in accordance with the Federal Rules of Civil Procedure.

James F. Gilligan  
Assistant United States Attorney  
601 N. W. Loop 410, Suite 600  
San Antonio, Texas 78216

*E-File*

/s/ William Robert Hand

WILLIAM ROBERT HAND